



FREDERICK COUNTY PLANNING COMMISSION

February 9, 2011

TITLE: Verizon – New Design @ Grove Road

FILE NUMBER: SP 99-19c (AP#'s 11263)

REQUEST: **Site Plan Approval** (Requesting approval for new communications tower in General Commercial zone)

PROJECT INFORMATION:

LOCATION: North-side Grove Road, near MD 85
ZONE: General Commercial (GC)
REGION: Frederick Planning Region
WATER/SEWER: W-1, S-1 (connected)
COMP. PLAN/LAND USE: General Commercial

APPLICANT/REPRESENTATIVES: (as applicable)

APPLICANT: Verizon Wireless
OWNER: Frederick Land LLP
ENGINEER: DMW, Inc.
ARCHITECT: N. A.
ATTORNEY: Not Listed

STAFF: Stephen O'Philips, Principal Planner

RECOMMENDATION: Conditional Approval, subject to Planning Commission approval of landscaping design

Enclosures:

Exhibit #1: Aerial Photo
Exhibit #2: Applicant Packet (clipped 8 1/2 x 11)
Exhibit #3: Site Plan (Sheets Z-1, Z-2 and L-1)

STAFF REPORT

BACKGROUND:

Previous site Development: The Applicant proposes to erect a communications tower adjacent to the "EZStorage" Building, which is located in the Frederick Industrial Center subdivision. The Frederick Industrial Center was originally recorded as "Newman (Industrial) Park" in the 1970's. After a series of re-subdivisions, the name of a portion of the development changed to "Frederick Industrial Park" in the 1980's. Approximately 35 industrial lots were recorded throughout the 1970's and 1980's.

In 2005 the Frederick County Planning Commission (FcPc) approved a Combined Preliminary (Re-Subdivision) Plan and Site Plan for this site. The 2005 application contained the following:

- ☐ Re-subdivision for Lots 10R and 11 into Lots 10R-A, 10R-B and 11A, 11B
- ☐ Final Site Plan Approval for Lot # 11-B, EZStorage Building and Facility;
- ☐ Conceptual Site Plan for Lots # 10R-A, 10R-B, and 11-A (Tire Store and two Restaurants); and
- ☐ APFO approval.

Also, in 2005 an APFO Letter of Understanding (LOU) was executed. A Final Plat was recorded in 2006 that separated the EZStorage lot from the other lots, and effectively combined the other three lots into one lot. The recordation of this Final Plat vested the 2005 APFO approval. The EZStorage (Lot 11B) facility has been built and is operating, and the other lots (10R-A, 10R-B and 11A) have not been developed.¹

This Site Plan Application: The Applicant now requests Site Plan approval to build an un-manned 120' communications tower (and ground equipment) in the General Commercial zone. Antennae additions of 5' will cause the tower + antennae to be 125'. Also, the Applicant proposes a small fenced enclosure (25' x 65') for equipment shelter (12' x 20').

LAND USE, CIRCULATION, PARKING, DIMENSIONAL REQUIREMENTS & UTILITIES:

Land Use and Zoning Review: Communication towers in the GC zone do not require Special Exception approval by the Board of Appeals (BOA). In the GC zone, communication towers are principal permitted uses subject to site development plan approval. Also, communications towers in the GC zone are subject to the requirements of § 1-19-8.420.2 of the Zoning Ordinance.

Access/Circulation, Parking Spaces, Loading Area and Road Frontage Improvements: The Applicant proposes no changes in access from Grove Road. The Applicant also proposes no additional parking or loading spaces. Staff agrees that because of limited vehicle trips to the site for this particular use, no additional frontage improvements or parking is needed.

Dimensional Requirements/ Bulk Standards: The standard dimensional and bulk requirements for communications towers in an Agricultural zone are as follows:

¹ The Owner of the property subsequently received revised Preliminary Plan approval (January 2009) to revise the layout of the undeveloped lots by reconfiguring the formerly-approved Lots # 11A, 10R-A and 10R-B into only two lots (11A and 10R). However, that Plan has not obtained signature approval and is inactive at this time.

Use Classification	Minimum Lot Area	Lot Width	Setback values	Height
Communications Tower	N.A.	N.A.	§ 1-19-8.420.2 (2) Setbacks from all properties zoned other than residential shall be determined by the approving body, but shall not be less than the fall zone of the tower as defined by the engineering specifications.	§ 1-19-8.420.2. (D) The tower height may exceed the maximum height permitted within the HS, GC, ORI, LI and GI Districts, and provided the required setbacks are met after a determination by the approving body that its visual profile and appearance would make no substantial change in the character of the area.

With regard to setbacks, the Applicant has provided a letter on Sheet 2 of the Site Plan application demonstrating that the fall zone is 31 feet or less. The Applicant has provided a setback of 31' from the property line.

With regard to the height, it is the DPDR Staff's opinion that no substantial change in the character of the area would be caused by the erection of this communications tower (even without substantive landscaping) because the area is already highly commercialized and the addition of a 120' tower would not be out of character with the surrounding commercial neighborhood. However, as the Code language indicates, it is within the power of the FcPc to make this determination.

Utilities: The parcel is classified as W-1, S-1 – meaning utilities are connected. However, this site will not require water or sewer services because this will be an un-manned facility.

§ 1-19-8.420.2 REQUIREMENTS:

The following cites the requirements of § 1-19-8.420.2 and provides Staff explanation afterward in underline:

(A) The applicant and the property owner shall be responsible for maintaining the tower in a safe condition.

(B) The tower shall be utilized continuously for wireless communications. In the event the tower ceases to be used for wireless communications for a period of 6 months, the approval will terminate. The property owner shall remove the tower within 90 days after termination. The property owner shall ensure the tower removal by posting an acceptable monetary guarantee with the county on forms provided by the office of the Zoning Administrator. The guarantee shall be for an amount equal to a cost estimate approved by the Zoning Administrator for the removal of the tower, plus a 15% contingency. This issue is discussed under "Miscellaneous Design and Administrative Issues" below.

(C) All towers shall be designed for co-location, which shall mean the ability of the structure to allow for the placement of antennae for 2 or more carriers. This provision may be waived by the approving body if it is determined that co-location will have an adverse impact on the surrounding area. The Applicant has verbally indicated that the structure is design to accommodate co-location, but has not documented this on the Site Plan.

(D) The tower height may exceed the maximum height permitted within the HS, GC, ORI, LI and GI Districts, and provided the required setbacks are met after a determination by the approving body that its visual profile and appearance would make no substantial change in the character of the area. See "Dimensional Requirements" above.

(E) All applications for approval of communications towers shall include:

(1) Justification from the applicant as to why the site was selected; See Addendum material attached.

(2) Propagation studies showing service area and system coverage in the county; See Addendum material attached.

(3) Photo simulations of the tower and site, including equipment areas at the base from at least 2 directions and from a distance of no more than 1 mile. See Addendum material attached.

(F) As part of the site plan review, screening and fencing may be required around the base of the tower structure and any equipment buildings. The Applicant is proposing a 12' board fence, however, further discussion regarding landscaping is provided below.

(G) The appearance of the tower structure shall be minimized by the reasonable use of commercially available technology to reduce visual impact, with specific reference to size, color and silhouette properties. The decision of the approving authority shall be final. The Applicant is proposing a monopole, light gray in color.

(H) No lighting is to be placed on the tower unless specifically required by the Federal Aviation Administration. Note # 11 on Sheet 1 attests to this restriction.

(I) Monopoles shall be the preferred tower structure type within the county. Monopole is proposed.

(J) All tower sites shall be identified by means of a sign no larger than 6 square feet affixed to the equipment building or fence enclosure. Said sign shall identify the tower owner and each locating provider and shall provide the telephone number for a person to contact in the event of an emergency. The Applicant is proposing an 18" x 24" sign on the board fence.

(K) Site plan approval for the tower access, equipment, and structures shall be by the Planning Commission in accordance with the site plan regulations specified within the zoning ordinance.

(L) No towers are permitted within land designated or eligible for designation for National Register or Frederick County Historic Districts or Sites. This site is not a historic site.

(M) A copy of all reports including the environmental assessment, NEPA review, and SHPO review, as required by or provided to the Federal Communications Commission, shall be included as part of the application. See Addendum material attached.

(N) Towers should be sited within or adjacent to areas of mature vegetation and should be located down slope from ridge lines and towards the interior of a parcel whenever possible and only should be considered elsewhere on the property when technical data or aesthetic reasons indicate there is no other preferable location. This site does not meet the criteria of being sited within an area of mature vegetation, however, the Applicant's Addendum material attempts to explain why this site was chosen.

(O) All applications shall include information as to how the applicant has addressed the visual impact of the tower on all county designated preservation areas, such as: rural legacy areas, agricultural preservation areas, critical farms, Monocacy scenic river, Appalachian Trail, historic sites and sites eligible for designation. This site is remote from all of these designated areas.

(P) Towers may be permitted within the Mineral Mining (MM) and non-residential Mixed Use Development (MXD) floating zones with the approval of the Planning Commission. Towers shall not be permitted within residential, PUD or residential MXD Districts.

(Q) Communications towers in existence on the effective date of this ordinance (Ord. 99-14-241) shall not be required to comply with these provisions, except in the event they increase the height.

(R) Except as provided in § 1-19-8.332(F) setbacks for communications tower shall be as follows.

(1) Setback from all property zoned residential shall be a distance not less than 1 foot for every foot of tower height, but in no case less than 300 feet. Setback distance may be modified by the approving body.

(2) Setbacks from all properties zoned other than residential shall be determined by the approving body, but shall not be less than the fall zone of the tower as defined by the engineering specifications. See "Dimensional Requirements" above.

ENVIRONMENTAL ANALYSIS:

Open/Green Space and Floodplain Issues: There are no open or green space requirements in the GC zone. Also, there are no hydrological or buffer elements on this lease area.

Landscaping: In addition to the subsection 1-19-8.420.2 (F) "...screening and fencing may be required around the base of the tower structure and any equipment buildings...", there is a subsection in § 1-19-6.400 (B) (3): (Land Use Buffering) that pertains to this application: "All other uses: buffering and screening for all other land uses shall be determined by the Planning Commission.". Both of these Code references provide little in the way of concrete criteria by which Staff can judge the landscape requirements. The Applicant proposes nine American Holly shrubs/trees near the fenced enclosure. The hollies are proposed to be planted at 8' height. American Hollies are slow growing evergreen shrubs/trees that are likely to attain a height of no more than 25' in about 30 years. However, in about 75 years the proposed American Hollies would begin to provide substantive screening to about the 40-55' height level.

When the original EZStorage Building was reviewed in 2005, that applicant demonstrated that a service road and drainage easement located around the property line prevented any type of landscape planting to the sides and rear of the Building. Additionally, that applicant claimed that they could not allow any plantings near the EZStorage Building because the tree roots would interfere with the basement foundation. Also, given the lack of land and property landscaping requirements in the Frederick County Code at the time of the 2005 Site Plan review, no landscaping was required to the sides or in the rear of the EZStorage Building. As a result, no landscaping to the sides or to the rear of the EZStorage Building was provided with the Site Plan approval. Since that time, Code changes to the landscape section of the Zoning Ordinance became effective January 29, 2010. A plat abandoning the drainage easement circumnavigating the rear property line was recorded at Liber 6601/ Folio 237, which may allow for additional landscape plantings. Prior to Site Plan signature, the status of this easement area must be confirmed.

Staff suggested landscape plantings of species that would attain greater heights than the proposed American Holly trees (White Pine and non-native Spruce evergreen trees); however, the EZStorage building owners indicated that they did not want these trees. Also, the Staff suggested that this Applicant explore utilizing the adjoiner's property within the fenced area of EZStorage to plant deciduous trees that would attain a substantial height. The Applicant elected not to pursue this option, citing that they did not want to incur the obligation of executing an agreement with the adjoining property owner. Once it is confirmed that the drainage easement is properly released, then additional tree planting with taller species can be proposed along the property lines to help screen the proposed communication tower.

Storm-water Management (SWM) Design: This project was tested with regard to the requirements of the Maryland Stormwater Management Act of 2007 (SWM 2007), which became effective May 4, 2010. However, because the site disturbance is less than 5,000 sq. ft. an exemption is allowed for this site development.

Forest Resource Ordinance (FRO): There are no priority systems on site. FRO mitigation requirements were satisfied by a forest fee-in-lieu payment made at the time the EZStorage Building was developed.

MISCELLANEOUS DESIGN and ADMINISTRATIVE ISSUES:

Lighting: This tower will not require any lighting of any kind, other than FAA emergency lighting requirements.

Signage: The Applicant proposes no signage with this application other than the six sq. ft. identification sign required by the Zoning Ordinance.

Fencing: The Applicant is providing a 12' board fence.

Guarantee: In accordance with §1-19-8.420.2(B), the Applicant must post an acceptable guarantee with the County on forms approved by the Zoning Administrator prior to permit release. The guarantee is to ensure proper removal of the tower if it ceases to be used for six months or more. The Applicant has noted their intent to execute this monetary guarantee but has not added this statement to the Site Plan.

Propagation Studies: As required by § 1-19-8.420.2 the Applicant has included propagation studies in the "Communications Tower Planning Commission Submittal" packet indicating *before* and *after* coverage information. Staff would note that the *before* and *after* coverage does not illustrative a dramatic coverage increase as with some other tower applications, but does fill in gaps in existing coverage.

Photo-simulation Studies: As required by § 1-19-8.420.2 the Applicant has included photo-simulation in the "Communications Tower Planning Commission Submittal" packet showing *before* and *after* views from several vantage points.

ADEQUATE PUBLIC FACILITIES ORDINANCE (APFO):

In General: This project was reviewed for potential impacts on schools, water/sewer and roads. This project was determined to generate no impacts on schools, utilities or traffic.

- ☐ **Schools:** The non-residential nature of this project has no impact on schools.
- ☐ **Water and Sewer.** The un-manned operations will require no water or sewer facilities.
- ☐ **Traffic:** The traffic engineer has indicated that less than one peak-hour trip will be generated on this site and is therefore exempt.

Therefore, this project is exempt from APFO.

OTHER AGENCY COMMENTS:

Agency	Comment
Engineering Section, DPDR	Conditional Approval. Additional clarification of drainage issues, and resolution of easement release for additional landscaping are must be resolved prior to Site Plan signature.
Planning Section, DPDR	Conditional Approval, subject to a more substantial Landscaping Plan being offered.
Traffic Engineering	Approved.
Life Safety, DPDR	Approved. Emergency Response Information: 1 st Responder: Westview 2 nd Responder: United
Health Department	Conditional Approval (with no listed conditions).
DUSWM	Approved.

FINDINGS:

The Applicant is requesting approval of a Site Plan (AP # 11263) for a communications tower monopole 120' in height with a 5' extension for lightning rod and antennae extensions, and ground facilities.

The Staff finds that:

- 1) Site Plan approval can be given for a three-year period from the date of FcPc approval.
- 2) This project is exempt from the APFO.
- 3) There are no hydrological components on this site. FRO forest requirements were met in 2005 with Fee-in-Lieu payment.
- 4) This site generates no parking or loading requirements.
- 5) The Applicant must post an acceptable guarantee with the County on forms approved by the Zoning Administrator prior to permit release.
- 6) Proposed American Holly trees would take approximately 75 years to attain a height where substantial screening would mitigate the 120' monopole. The proposed landscaping does not take advantage of site opportunities to provide substantial landscape screening. The landscape criteria in the Code provide two generic references to the authority for review being with the FcPc.
- 7) Based upon the discussion in this Report, and with the inclusion of a more substantial landscape proposal, and with the FcPc's acceptance of the proposed landscaping, the Staff finds that the Site Plan application meets and/or will meet all applicable Zoning, Subdivision, APFO and FRO requirements once all Staff and Agency comments and conditions are met or mitigated. With certain conditions of approval added, the Staff offers no objection to approval.

RECOMMENDATION:

Should the FcPc choose to approve this Site Plan application (AP # 11263), the Staff would recommend adding the following conditions to the approval:

Applicant shall:

- 1) Post an acceptable guarantee with the County on forms approved by the Zoning Administrator prior to permit release.
- 2) Provide a more substantial Landscape Plan to be approved by Staff.
- 3) Comply with Agency comments as this project moves through the development process.

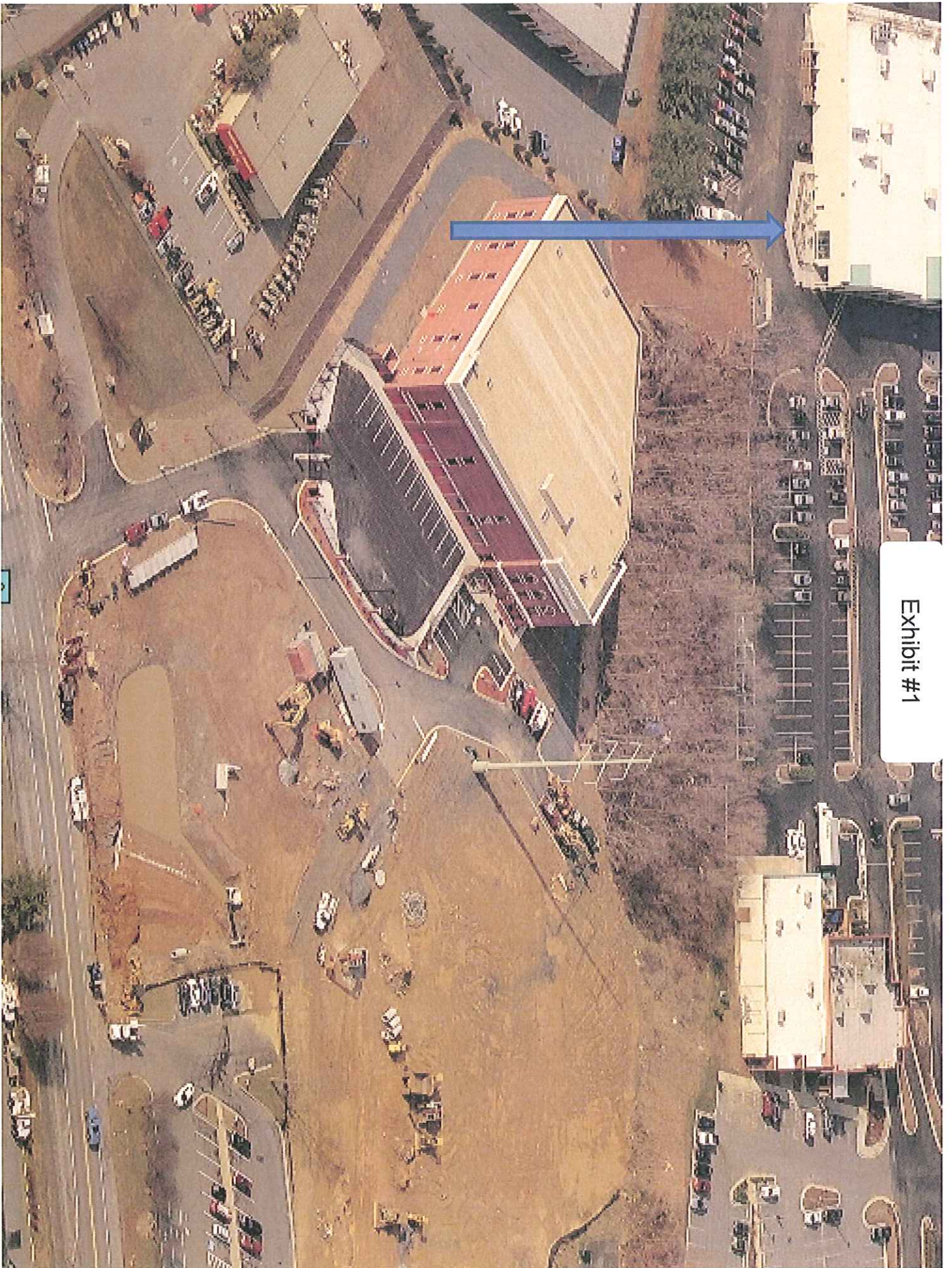


Exhibit #1